

### REMARKS/ARGUMENTS

Claims 1-11 remain in this application. Claims 12 – 22 are new.

Claims 1- 11 stand rejected under 35 USC § 101, because the claimed invention is directed to non-statutory subject matter. As amended the invention is within the technological arts and produces concrete and tangible results. Specifically, the invention as amended produces a comparison between two accounts, which comparison is accessible to a user in real-time to aid the user in managing a plurality of jobs. The present application applies, uses, or advances the technological arts by teaching a user a method for job-based budget management of a business in real-time. The results of the comparison are concrete and tangible in that they allow the user to manage job-based budgets according to information learned from the comparison. Thus applicant respectfully submits the invention, as amended, claims statutory subject matter.

Claims 1 – 11 stand rejected under 35 USC § 103 over Swart, U.S. 6, 347, 306. A *prima facie* case for obviousness under 35 USC §103 requires,

First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

Furthermore, “[t]o establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.”

As Examiner pointed out, Swart discloses a real-time payroll data system on-line job-based budget management of business time sheet invoices (time sheet data from work shifts) and providing accounts, e.g. bank accounts, allocating at least one transaction and automatically adjusting balances, e.g. balance in accounts.

Swart '306 does not disclose providing a actual account corresponding to plurality of job-based budget accounts, and a plurality of job-based allocation accounts corresponding to said plurality of budget accounts. Nor does Swart disclose accessing a comparison of the balance of allocated funds to the amount of budgeted funds, and using the comparison as a management tool allocating resources in real-time to aid in the management of job-based budget management. The invention as taught allows job-based managers to become more competitive through access to accurate and timely job-based budget and cost information. Furthermore, a job-based manager can improve his or her efficiency and competitiveness by having immediate access to information concerning a job's cost, progress and profitability for which the accounts have been created.

Applicant respectfully submits that Swart is an improper reference for a 103 rejection because it does not teach each and every element claimed in the present application. Furthermore, Applicant respectfully submits it is improper hindsight to suggest the limitations taught and claimed by the present invention would have been obvious to one of ordinary skill in the art in view of Swart. The present invention allows the user to be more competitive and efficient in managing job-based budgets. The prior art teaches a direct payroll (or other accounts) processing. The prior art does not teach the user to make strategic management decisions based on information produced by use of the method.

Applicant respectfully requests a timely Notice of Allowance be issued in this case.

Date: November 4, 2004

Respectfully submitted,

KIRTON & McCONKIE

By

  
Michael H. Krieger

Reg. No. 35,232

Kirton & McConkie

1800 Eagle Gate Tower

60 East South Temple

P.O. Box 45120

Salt Lake City, Utah 84111-1004

Telephone: (801) 328-3600

Fax: (801) 321-4893